

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeene G. Kelly.

ANR Pipeline Company

Docket No. GP92-11-000

ORDER APPROVING AMENDMENT
TO STIPULATION AND CONSENT AGREEMENT

(Issued January 29, 2004)

1. On October 15, 2002, ANR Pipeline Company (ANR) requested to amend its 1992 Stipulation and Consent Agreement, approved by the Commission in a May 13, 1992 Order Approving Stipulation and Consent Agreement.¹ ANR seeks to substitute El Paso Corporation's (El Paso) Project Data Sheet/PeopleSoft tools process (PDS Process) for the Construction Project Clearance Procedure (CPC Procedure) that ANR developed, as required by the Stipulation and Agreement to ensure compliance with the Natural Gas Act (NGA), Natural Gas Policy Act (NGPA), and the Commission's regulations. ANR states that it has been using the CPC Procedure since it was required to do so by the Stipulation and Agreement. ANR further states that it has been using both the CPC Procedure and the PDS Process since it was acquired by El Paso, effective on January 29, 2001. For the reasons discussed below, the Commission approves the amendment of the 1992 Stipulation and Agreement to substitute the PDS Process for the CPC Procedure.

Background

2. In 1992, the Enforcement Section, Office of the General Counsel (Enforcement), and ANR, entered into a Stipulation and Consent Agreement (Agreement), effective May 1, 1992, to resolve all issues in Enforcement's investigation of ANR's construction of the Maumee Lateral, Greenwood Plant Project, Shorewood-NIGAS Interconnect and the Sabine Pipeline. Enforcement alleged that ANR knowingly violated the NGA, the

¹59 FERC ¶ 61,162 (1992).

NGPA, and the Commission's regulations by constructing the projects without first obtaining environmental clearances and, in one instance, without filing a 30-day notice of construction.

3. ANR paid \$350,000 to settle the enumerated claims and agreed to implement corporate procedures to ensure compliance with the NGA, NGPA, and the Commission's regulations. That Agreement was approved by the Commission in its May 13, 1992 Order. Upon the issuance of the order approving the Agreement, ANR placed the CPC Procedure into effect.²

4. On February 25, 2002 and October 15, 2002, ANR filed requests to amend the Agreement. ANR states that it has been using the CPC Procedure since it was required to do so by the Agreement and that it has been using both the CPC Procedure and the PDS Process since it was acquired by El Paso, effective on January 29, 2001. ANR states that the CPC Procedure is duplicative and in some instances inconsistent with the procedures used by El Paso's PDS Process. Therefore, ANR requests that the Agreement be amended to substitute the PDS Process for the CPC Procedure.

Discussion

5. The PDS Process used by El Paso was initially utilized as a compliance plan for Tennessee Gas Pipeline Company in 1998.³ Commission staff has analyzed both the PDS and CPC Procedure and compared them to determine the level of success of the use of both procedures to achieve compliance with the Commission's environmental regulations⁴ and, as applicable, with the annual reports, filed pursuant to 18 C.F.R. Part 157 and Section 284.11. Comparisons were made of the preconstruction checklists contained in the CPC and the PDS; a comparison was also made of the level of non-compliance of ANR, El Paso, and their affiliates.

6. The CPC Procedure and PDS Process are similar. The checklists in both procedures address issues that relate to the pre-construction process. One difference

²59 FERC ¶61,162, Appendix A (1992).

³Tennessee Gas Pipeline Co., Docket No. IN99-1-000, Order Approving Stipulation and Consent Agreement, Authorizing Abandonments and Granting Certificate, 85 FERC ¶ 61,246 (November 17, 1998).

⁴18 C.F.R. § 157.206(b).

between the two plans is that the CPC Procedure specifically addresses permits and approval needed to be obtained at the county, state, and federal levels. Although the PDS Process does not specifically address approval to be obtained at the county, state, and federal levels, these requirements are addressed when the project data sheets are completed and forwarded to reviewers for verification of compliance with requirements relating to environmental matters.

7. The Commission finds that the amendment to the Agreement proposed by ANR is in the public interest in that it facilitates the integration of compliance procedures of ANR with El Paso and that there is no compelling reason to preclude substituting the PDS for the CPC Process.

The Commission orders:

(A) The Commission amends the Stipulation and Consent Agreement as stated above, substituting the Project Data Sheet/PeopleSoft tools Process for the Construction Project Clearance Procedure, without further modification.

(B) By approving the Amendment to the Agreement the Commission is not relinquishing any authority either under NGA Section 7 or under NGPA Section 311.

(C) All terms and conditions of the Agreement, as amended by the Commission, remain enforceable, applicable to ANR, its successors and assigns.

(D) The Commission's approval of the amendment of the Agreement, as set forth in the body of this order, and Paragraph A, above, does not constitute approval of, or precedent regarding, any principle or issue in any proceeding.

By the Commission.

(S E A L)

Linda Mitry,
Acting Secretary.